



December 3, 2001

Ms. Mia Settle-Vinson
Assistant City Attorney
City of Houston
P.O. Box 1562
Houston, Texas 77251-1562

OR2001-5609

Dear Ms. Vinson:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 155541.

The Houston Police Department (the "department") received a request for "copies of all paperwork" concerning four specific department offense numbers. You state that the department will release to the requestor the "front page" offense report information. You claim that the remaining requested information is excepted from disclosure under section 552.103 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

Initially, we note that section 552.022 of the Government Code makes certain information expressly public, and therefore not subject to discretionary exceptions to disclosure. Section 552.022 states in relevant part:

- (a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and are not excepted from required disclosure under this chapter unless they are expressly confidential under other law.

Gov't Code § 552.022. One such category of expressly public information under section 552.022 is "a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by [s]ection 552.108" Gov't Code § 552.022(a)(1). The submitted information is subject to section 552.022(a)(1), and thus

¹The department raised sections 552.101, 552.103, 552.107, 552.108, 552.111, 552.117, and 552.130 in its September 25, 2001 correspondence to this office; however, the department withdrew all assertions except for section 552.103 in its September 28, 2001 correspondence.

must be released to the requestor unless it is excepted from disclosure under section 552.108, or made "expressly confidential" under "other law." You do not claim exception under section 552.108. As a discretionary exception, section 552.103 does not constitute "other law" for purposes of section 552.022.² Therefore, the department may not withhold the submitted information under section 552.103.

A portion of the submitted information contains a vehicle license plate number. Section 552.130 provides in relevant part:

(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

....

(2) a motor vehicle title or registration issued by an agency of this state[.]

Gov't Code § 552.130(a)(2). We note, however, that the requestor in this case is the individual whose license plate number appears in the submitted information. Thus, the requestor has a special right of access under section 552.023 to the license plate number.³ Therefore, the license plate number must be released to the requestor.

In summary, with the exception of the license plate number, which must be released to the requestor pursuant to section 552.023 of the Government Code, the submitted information must be released to the requestor pursuant to section 552.022.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by

²Discretionary exceptions are intended to protect only the interests of the governmental body, as distinct from exceptions which are intended to protect information deemed confidential by law or the interests of third parties. *See, e.g.*, Open Records Decision Nos. 551 (1990) (statutory predecessor to section 552.103 serves only to protect governmental body's position in litigation, and does not itself make information confidential), 522 at 4 (1989) (discretionary exceptions in general). Discretionary exceptions therefore do not constitute "other law" that makes information confidential.

³Section 552.023(a) provides that "[a] person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests."

filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink that reads "J. Steven Bohl". The signature is written in a cursive style with a large, stylized "J" and "B".

J. Steven Bohl
Assistant Attorney General
Open Records Division

JSB/sdk

Ref: ID# 155541

Enc: Submitted documents

c: Ms. Betty Preston
c/o 166 Broadhurst Drive
Houston, Texas 77047-5074
(w/o enclosures)